

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD.

SPECIAL CIVIL APPLICATION No 3418 of 1995

For Approval and Signature :

Hon'ble MR. JUSTICE S.K.KESHOTE

1. Whether Reporters of Local Papers may be allowed to see the Judgment ?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the Judgment ?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

J.L. RAJYAGURU & ORS.

VERSUS

JUNAGADH REGIONAL OILSEEDS GROWERS' CO-OP UNION LTD

Appearance:

MR MUKUL SINHA for Petitioner

MR BK OZA for Respondent No.1

MR VB GHARANIA for Respondent No.3

CORAM : MR JUSTICE S.K. KESHOTE

Date of decision: 16/04/99

C.A.V. JUDGMENT

Heard the learned counsel for the parties.

2. The petitioner in this special civil application prayed for the following reliefs.

- (A) Declaring that the impugned action of terminating the services of the petitioners in contravention of section 25 N of the ID Act, in violation of Article 14 and 300 A of the Constitution of India, arbitrary, illegal and therefore, void and quashing and setting aside the order of termination / retrenchment at Annexure I and similar orders of termination passed against all other petitioners and directing the respondent to reinstate all the petitioners on their original position.
- (B) Permanently restraining the Respondent NO.1 from implementing or acting in furtherance of the impugned order at Annexure I,
- (C) Directing the respondent No.2 to prosecute the board of directors as per complaint filed at Annexure III
- (D) Pending admission and final disposal of this petition the Hon'ble Court be pleased by way of interim/ ad-interim order, stay the further implementation of the orders at Annexure I and directing the respondent No.1 to pay and continue to pay the regular wages and all other benefits to the petitioners.
- (E) Any other relief deemed fit to meet the ends of justice.

3. Earlier the petitioners have approached to this court and this court has decided their special civil applications on 16th January, 1995. Judgment of this court is on the record of this special civil application as annexure VI at page no.29. This court has given direction to the appropriate Government to decide within a period of one month from the date of receipt of writ of that order the question whether the respondent No.1 is an establishment of a seasonal character or whether the work is performed only intermittently, and thereafter, shall proceed in accordance with law in the matter.

4. Learned counsel for the petitioners submits that in pursuance of the decision of this Court aforesaid, the appropriate Government has decided the matter and under its order dated 17th April, 1995, the respondent NO.1 organisation was held to be not of a seasonal

character and further its activities are carried out round the year.

5. The grievance of the petitioners in this petition is that the termination of the services of the petitioners is in violation of provisions of section 25 N of the Industrial Disputes Act, 1947. The respondent No.1 has not filed any reply to this special civil application. So the averments made in the special civil application stand uncontroverted. This Court has to accept that that organisation of the respondent No.1 is not of a seasonal character and that its activities are carried out round the year. Secondly, it has to be accepted that the services of the petitioners have been terminated in violation of the provisions of section 25 N of the I.D. Act, 1947. However, this court has protected the petitioners by grant of interim relief. Learned counsel for the petitioners contended that though the interim relief has been granted by this court in favour of the petitioners but the respondent No.1 is not paying wages to them. However, the fact remains that the interim relief which has been granted by this court continues for all the time, reply to the special civil application has not been filed by the respondent No.1 and the order of the State Government dated 17th April, 1995 has also not been challenged by the respondent NO.1. So that has to be taken to be a final order.

6. In view of these facts, I consider it to be appropriate to dispose of this special civil application with the directions that the petitioners shall make a representation in this respect to the respondent No.1 and on receipt of the representation, the Managing Director of the respondent NO.1 shall decide the same in accordance with law and keeping in view the judgment of this court given on 16th January, 1995 in the special civil applications filed by the petitioners, within a period of two months from the date of receipt thereof. The petitioners are directed to send along with their representation, copies of the documents aforesaid. In case the grievance of the petitioners are not acceptable and still it is held that the termination of their services are legal and justified then the respondent No.1 shall pass a reasoned order and copy of the same may be sent to the petitioners by registered post A.D..

7. In the result, this special civil application and Rule stand disposed of in the aforesaid terms with no order as to costs. Liberty is granted to the petitioners for revival of this special civil

application in case of difficulty. Till the representation is decided by the Managing Director of the respondent No.1, the interim relief which has been granted by this Court earlier in this special civil application shall continue.

zgs/-